

Mail Stop Interference  
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Paper 1  
Filed: August 27, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JOHN EMERY, KB TAN, ALEM TRUNEH,  
AND PETER YOUNG  
Junior Party  
(U.S. Patent 5,885,800),

v.

REINER GENTZ, REINHARD EBNER, GUO-LIANG YU,  
STEVEN M. RUBEN, JIAN NI AND PING FENG  
Senior Party  
(U.S. Patent Application 09/006,352).

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Patent Interference No. 105,701 (MPT)  
(Technology Center 1600)

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DECLARATION - Bd.R. 203(b)<sup>1</sup>

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. '41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           **Part A. Declaration of interference**

2           An interference is declared (35 U.S.C. § 135(a)) between the above-  
3        identified parties. Details of the application(s), patent (if any), reissue application  
4        (if any), count(s) and claims designated as corresponding or as not corresponding  
5        to the count(s) appear in Parts E and F of this DECLARATION.

6           **Part B. Judge managing the interference**

7           Administrative Patent Judge Michael P. Tierney has been designated to  
8        manage the interference. Bd. R. 104(a).

9           **Part C. Standing order**

10          A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
11        DECLARATION. The STANDING ORDER applies to this interference.

12          **Part D. Initial conference call**

13          A telephone conference call to discuss the interference is set for 2:00 p.m. on  
14        October 22, 2009 (the Board will initiate the call).

15          No later than four business days prior to the conference call, each party shall  
16        file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
17        SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

18          A sample schedule for taking action during the motion phase appears as  
19        Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the  
20        schedule prior to the conference call and to agree on dates for taking action.

1 A typical motion period lasts approximately eight (8) months. Counsel should be  
2 prepared to justify any request for a shorter or longer period.

3 **Part E. Identification and order of the parties**

4 Junior Party

5       Named Inventors:       JOHN EMERY, WYNNEWOOD, PA  
6                                    KB TAN, PHILADELPHIA, PA  
7                                    ALEM TRUNEH, WEST CHESTER, PA  
8                                    PETER YOUNG, LAWRENCEVILLE, NJ

9       Involved Patent:       U.S. Patent 5,885,800, issued on  
10                                    March 23, 1999, based upon  
11                                    U.S. Application 08/794,796  
12                                    filed February 4, 1997

13      Title:                    DNA Encoding Tumor Necrosis Related Receptor,  
14                                    TR4

15      Assignee:                SmithKline Beecham Corporation

16

17 Senior Party

18      Named inventors:        REINER GENTZ, SILVER SPRING, MD  
19                                    REINHARD EBNER, GAITHERSBURG, MD  
20                                    GUO-LIANG YU, DARNESTOWN, MD  
21                                    STEVEN M. RUBEN, OLNEY, MD  
22                                    JIAN NI, ROCKVILLE, MD  
23                                    PING FENG, GAITHERSBURG, MD

Involved Application: U.S. Application 09/006,352  
filed January 13, 1998

Title: Tumor Necrosis Factor Receptors 6 $\alpha$  & 6 $\beta$

Assignee: Human Genome Sciences

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior is responsible for initiating settlement discussions. SO ¶ 126.1.

## **Part F. Count and claims of the parties**

Count 1

11 A polynucleotide according to claim 4 of U.S. Patent 5,885,800 or claim 40  
12 of U.S. Application 09/006,352.

The claims of the parties are:

Emery '800: 1-16

Gentz '352: 24-117, 285, 287, 291, 292, 295, 297 and 302-305

The claims of the parties which correspond to Count 1 are:

## Emery '800: 2, 4-8 and 11-16

Gentz '352: 24-117, 285, 291, 292, 295, 297 and 302-305

1        The claims of the parties which do not correspond to Count 1, and therefore  
2        are not involved in the interference, are:

3                Emery '800: 1, 3, and 9-10

4                Gentz '352: 287

5        The parties are accorded the following benefit for Count 1:

6                Emery is accorded benefit of the filing date of the earlier filed  
7                application:

8                None

9                Gentz is accorded benefit of the filing date of the earlier filed  
10               application:

11               U.S. Provisional Application 60/035,496, filed January 14, 1997.

1    **Part G. Heading to be used on papers**

2            The following heading must be used on all papers filed in this interference,  
3    see SO ¶ 106.1.1:

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1                   **Part H. Order form for requesting file copies**

2                   When requesting copies of files, use of SO Form 4 will greatly expedite  
3                   processing of the request. Please attach a copy of Parts E and F of this  
4                   DECLARATION with a hand-drawn circle around the patents and applications for  
5                   which a copy of a file wrapper is requested.

6  
7                   /Michael P. Tierney/  
8                   Administrative Patent Judge  
9

10                  Enc:  
11                  Copy of STANDING ORDER  
12                  Copy U.S. Patent 5,885,800  
13                  Copy of claims of U.S. Application 09/006,352  
14  
15

16                  Revised 3 January 2006  
17  
18

19                  cc (via overnight delivery):  
20

21                  Attorney for Emery:  
22  
23                  William T. Han, Esq.  
24                  SmithKline Beecham Corporation  
25                  P.O. Box 1539  
26                  King of Prussia, PA 19406-0939  
27

28                  Attorney for Gentz:  
29

30                  Human Genome Sciences, Inc.  
31                  Intellectual Property Department  
32                  14200 Shady Grove Road  
33                  Rockville, MD 20850